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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,293	10/06/2004	Anders Helmner	77191.21900	6475
30734 7590 10/19/2009 BAKER & HOSTETLER LLP WASHINGTON SQUARE, SUITE 1100 1050 CONNECTICUT AVE. N.W. WASHINGTON, DC 20036-5304				
EXAMINER				
FOX, CHARLES A				
ART UNIT		PAPER NUMBER		
3652				
NOTIFICATION DATE		DELIVERY MODE		
10/19/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@bakerlaw.com

Office Action Summary

Application No.

10/510,293

Applicant(s)

HELMNER, ANDERS

Examiner

Charles A. Fox

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1.5, 21, 25, 27 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1.5, 21, 25, 27 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 December 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 29, 2009 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 5, 21, 25, 27 and 29 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for sliding movement between the first and the intermediate conveyors, does not reasonably provide enablement for how this is accomplished in terms of structure. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to build and operate the invention commensurate in scope with these claims. There is no structure disclosed for allowing the sliding movement and no drawings showing this movement. The limitations should be cancelled from the claims or a specific place in the specification should be pointed out with the relevant structure and reference numerals thereof.

Claims 1,5,21,25,27 and 29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In this action elected species is being treated as shown in Figures 1 and 1A. This species has an intermediate conveying means with a first conveyor (8) and a second conveyor (12). Wherein the frame of conveyor (12) is pivotally attached to an end of the first conveyor per the specification. As such it is new matter to claim that the second conveyor (12) can be modifiable in length in a conveying direction that is transverse to the aircraft. This is not in accordance with the specification and must be cancelled from the claims. The second conveyor is modifiable in length in the longitudinal direction of the aircraft but this is not being claimed. This limitation is present in both independent claims. In the art rejections below these limitations are not being treated as they are not enabled.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,5, 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Fenner et al. Regarding claims 1 and 21 Fenner et al. US 4,780,043 disclose a system for loading and unloading aircraft comprising:

an aircraft cargo area (14) with a longitudinal conveying system (19) therein;
a separate conveyor (21) mounted at tarmac level and extendable into said cargo area via a hatch;
an intermediate conveying means (17) mounted between the longitudinal conveying system and the separate conveyor;
the intermediate conveying means further comprising:
a first conveyor (35a,b,c) running transverse to said cargo area;
a second conveyor (37a,b) running in a longitudinal direction of said cargo area;
wherein said second conveyor is slidably connected to said first conveyor;
whereby cargo may be moved from the separate conveyor to the longitudinal conveying system without having to be actively lifted.

Regarding claim 5 Fenner et al. also disclose the longitudinal conveying system further comprises a transport carpet which is more commonly known as a conveyor belt.

Regarding claim 25 Fenner et al. also teach the end of the intermediate conveyor means facing the longitudinal conveying system is adjustable in height relative to an end facing the separate tarmac conveyor. See Figure 4.

Regarding claim 27 Fenner et al. also disclose the angle between the tarmac conveyor and the intermediate conveying means can be between the relative angle of ten to thirty degrees.

Regarding claim 29 Fenner et al. teach making part of their device of aluminum.

Response to Amendment

The amendments to the claims filed on June 22, 2009 have been entered into the record.

Response to Arguments

Applicant's arguments filed June 22, 2009 have been fully considered but they are not persuasive. Regarding the intended use of the device in moving loose cargo the arguments are not persuasive. Patentability can not rely on the function of a device, but rather its structure. The structure of the instant invention can move containers as well as loose cargo as can the Fenner et al. reference. The structure taught by the reference need only be able to perform the intended function of the instant invention. Further the Fenner et al. reference does not teach away from the instant invention as they do not teach or claim their system can not move loose cargo.

Regarding the 35 U.S.C. rejections the applicant is claiming structure that is not disclosed. There is disclosure of the second conveyor extending its length along the longitudinal axis of the aircraft, but not in a transverse axis of the aircraft as claimed. As this limitation is not enabled it is not being treated on the merits. The art rejections stand as before as the limitation applicant is relying on to overcome them is not enabled by the specification or the drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached on 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles A. Fox/
Primary Examiner, Art Unit 3652